

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JERRY RAY CAVINS,

Petitioner,

No. CIV S-03-0929 MCE KJM P

vs.

BILL LOCKYER, Attorney General of  
the State of California,

Respondent.

ORDER

Petitioner is a former civil detainee proceeding with a petition for writ of habeas corpus under 28 U.S.C. §2254. Petitioner seeks leave to file a second amended petition. Good cause appearing, petitioner's request will be granted and respondent will be directed to file a response to the second amended petition.

Petitioner also asks that the Attorney General of the State of California be substituted as respondent. Petitioner's request will be granted without prejudice to respondent presenting any argument in his response to petitioner's second amended petition that he is not the proper respondent in this action.

Finally, petitioner has asked to withdraw his May 27, 2005 motion for a stay. This request will be granted.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Petitioner's August 18, 2005 request for leave to file a second amended  
3 petition for writ of habeas corpus is granted;

4 2. The Clerk of the Court is directed to file separately the second amended  
5 petition, filed as an exhibit to petitioner's August 18, 2005 motion for leave to amend;

6 3. Petitioner's August 18, 2005 motion to substitute respondents is granted  
7 without prejudice to the new respondent presenting any argument in his response to petitioner's  
8 second amended petition that he is not the proper respondent in this action;

9 4. Bill Lockyer, Attorney General of the State of California is hereby substituted  
10 for Melvin Hunter as respondent in this action;

11 5. Respondent is directed to file a response to petitioner's habeas petition within  
12 sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer  
13 shall be accompanied by all transcripts and other documents relevant to the issues presented in  
14 the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

15 6. If the response to the habeas petition is an answer, petitioner's reply, if any,  
16 shall be filed and served within thirty days after service of the answer;

17 7. If the response to the habeas petition is a motion, petitioner's opposition or  
18 statement of non-opposition to the motion shall be filed and served within thirty days after  
19 service of the motion, and respondent's reply, if any, shall be filed and served within fifteen days  
20 thereafter;

21 9. Petitioner's August 18, 2005 "motion to vacate" his May 27, 2005 motion for a  
22 stay is granted; and

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1                   10. Petitioner's May 27, 2005 motion for a stay is deemed withdrawn.

2 DATED: December 28, 2005.

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5                   UNITED STATES MAGISTRATE JUDGE  
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